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NOTES OF CASES.

Chantecler or the Barnyard Romeo.—The word “chantecler” is not of such a descriptive character as to preclude its exclusive appropriation, so held the court in *Frohman and others against Morris, Incorporated, and others*, 123 New York Supplement, 1090, and consequently Edmond Rostand’s play will alone grace the boards under that name this season. The court, in granting an injunction against the use of the word “chanteclair” as the title of a burlesque in which most of the characters were barnyard fowls, said that though no one intending to witness plaintiff’s play would possibly mistake the defendant’s performance for it, still the power to distinguish would not save the playgoer, who had gotten into the wrong theater, as his money would be spent and his evening irretrievably lost. The decree, however, did not interfere with the production of the play under the title of “The Barnyard Romeo.”

Obstructions.—An obstruction, like dirt upon a boy’s face, is merely matter out of place in the opinion of Judge Monroe of the Supreme Court of Louisiana. The court holds that that which may be a stepping-stone when in a position where it is needed and can be used as such becomes an obstruction when occupying a place intended for other use where it is not needed and cannot be so used. In the same case, *McCormack v. Robin*, 52 Southern Reporter, 779, the court holds that the feminine habit of putting on gloves between the front door and street car does not exhibit such reckless disregard or danger to life and limb as to preclude the recovery of damages for injuries resulting from the failure of those whose duty it is to keep the way free from obstruction; a person walking along a street or sidewalk not being expected to exercise the care which would be required in traversing a jungle.

Priest’s Vow of Poverty Not against Public Policy.—By the vow of poverty, Father Wirth, a member of the Order of St. Benedict of New Jersey, agreed that all property acquired by him during his lifetime should become the property of the order. At his death there was found in his immediate possession and control certain property acquired through large royalties received from books which he had written, the abbot having permitted him to retain his earnings and use them for charitable purposes. The question in *Order of St. Benedict of New Jersey v. Steinhauser*, 179 Federal Reporter, 137, is: Does the property belong to the order or to the heirs? Defendant contended that the contract was void as against public policy and that therefore the property belonged to the heirs. The Circuit Court of the United States holds that the contract is not void, since it would be contrary to all sense of justice to say that after Father Wirth had

joined the order, had unselfishly devoted his life to the charitable purposes of its organization, had worked continually that the moneys derived from his labors might be used by the society for such purposes, and, after he had died in full communion with the order, his heirs could recover from the order the value of his services; that as the constitution of the order provided that he might leave whenever he chose, the contract did not deprive him of his right of acquiring property, and forever incapacitate him from owning property; that the fact that for some years before his death, he was a resident of another state, and was permitted by the abbot to retain his earnings and use them for charitable purposes, did not release him from his vow of poverty, nor make such earnings his individual property, but merely constituted him agent of the order in disposing of the money in charity, which agency terminated with his death.

Negligent Communication of Smallpox.—Plaintiff in *Franklin v. Butcher*, 129 Southwestern Reporter, 428, brought an action to recover for the loss of wages of her minor son, and for money expended while he was suffering from smallpox contracted through the negligence of defendant. Plaintiff's first husband, the minor's father, was dead, but at the time she had again married. The court, in passing upon the plaintiff's right to recover such wages, held that it was not necessary that the mother should employ the son at a fixed wage to establish the relation of master and servant between them, as it grew out of the relation of the parties; that after the death of the father the duty to support the son devolved upon the mother, and she then became entitled to his wages as a corollary to the duty to support him. It was also held that if defendant negligently and carelessly communicated the disease to the son it was immaterial whether it was done willfully or intentionally, and also as to how it was done if it was negligently done. The plaintiff's husband in a companion case, *Hendricks v. Butcher*, 129 Southwestern Reporter, 431, recovered for the communication of smallpox to his entire family.

Conflicting Jurisdiction.—An intricate legal tangle is attempted to be unraveled in *Illinois Central R. Co. v. Sheegog*, 177 Federal Reporter, 756. Sheegog, as administrator, brought an action in the Union county circuit of Kentucky against the Illinois Central Railroad Company and others for wrongfully causing the death of his decedent. Petition for removal to the United States Circuit Court on the ground of separable controversy and fraudulent joinder of parties defendant for the purpose of preventing such removal was denied. The defendant Illinois Central Railroad Company thereupon filed a transcript of the proceedings in the federal court, which denied a motion by plaintiff for remand to the state court. This left the cause apparently pending in both courts, and in both courts it was prosecuted to judgment. In the state court plaintiff recovered a